



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

July 9, 2012

Director (210)
Attention: Brenda Williams
P.O. Box 71383
Washington, D.C. 20024-1383

Subject: East Lynn Lake Coal Lease Final Land Use Analysis/ Environmental Impact Statement (Wayne County, West Virginia) CEQ # 20120172

Dear Director,

In accordance with Section 102(2) (C) of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332(2) (C), Section 309 of the Clean Air Act, 42 U.S.C. § 7609, and the Council on Environmental Quality (CEQ) regulations, 40 CFR Parts 1500-1508, the United States Environmental Protection Agency (EPA), has reviewed the Final Environmental Impact Statement (FEIS) for the above referenced project. The FEIS was prepared by the Bureau of Land Management (BLM) and is dated March 2009; the document was submitted for a Notice of Availability in the Federal in June 2012. The FEIS compares a No Action alternative to the proposed action of offering federal coal in the Coalburg/Winifrede seam for competitive leasing. The draft document of 2008 was reviewed by EPA, and a comment letter prepared dated November 10, 2008. In the comment letter the DEIS was rated according to the EPA rating system described on the website <https://www.epa.gov/compliance/nepa/comments/ratings.html>; the study was given a rating of EO-2 (Environmental Objections-Insufficient Information) and it was suggested that a range of alternatives for potential lease options/conditions should be considered and additional information was needed in the EIS.

The project area in Wayne County, West Virginia adjoins existing underground and surface coal mining operations and includes a large surface water impoundment formed behind an earthen dam constructed and operated by the Army Corps of Engineers (the Corps) for flood control and recreation. EPA appreciates the information and clarifications that were made in response to comments prepared on the project in 2008.

EPA's comments in correspondence of 2008 included concern about water quality, protection of dam integrity, and recognition of Environmental Justice communities. Comments suggested uncertainties in the geology (in particular, fracturing of bedrock) and potential risk from mining activities on the existing dam and water quality. Comments recommended that data from additional sources be considered to better define current surface and subsurface water quality in order to better understand current impairments likely to be resultant from mining activities; this could be used to better predict impact of the proposed activities on resources, and possibly lead to incorporation of improved management practices and mitigation. Recognizing uncertainties of geologic conditions of the area could help determine safety factors to reduce risk

of compromising both water resource quality and integrity of the dam and reservoir rim. Please see attached comments to specific responses made by BLM to EPA's letter of 2008.

It is unclear to EPA why the FEIS was signed and dated March 2009, but was not publically available until more than three years later. It is additionally unclear if updates to environmental and economic conditions were considered, such as new data on water quality from the state or industry monitoring, data for terrestrial resources, or updated economic analysis (which could include changes in coal prices and potential changes from increased interest in natural gas exploration).

EPA recognizes BLM's authority to release land for mineral leasing. EPA retains objections to the proposed leasing if additional study and fair safeguards are not in place. It would be appropriate to present additional investigation of site-specific conditions as part of a Supplemental EIS, available to the public, to help complete the assessment of potential environmental impact of the proposed action.

If additional analysis cannot be done as part of the EIS, it is recommended that the Record of Decision (ROD) specify the scope of study that will be performed prior to any mining activity being allowed to take place. It is strongly recommended that the ROD include details on the work tasks that will be required for geotechnical data collection and specify the analysis to be done to determine buffer protection for the dam using site-specific data. The ROD should state requirement for a strong monitoring and adaptive management plan designed with cooperation of the Corps for protection of the public resources. Additionally there should be monitoring and adaptive management for water quality assessment. Any planned projects should include in addition to geotechnical work, an updated study of environmental conditions, appropriate impact avoidance, minimization and mitigation, monitoring of water quality, best management practices for mineral resource extraction, processing, slurry impoundment construction, operation and maintenance. All new data and options should be developed before application is made in the permitting process.

EPA appreciates the opportunity to review the BLM project and hopes that dialogue can continue in order to appropriately condition any future leasing of federal lands in order to protect environmental resources and human life. EPA respectfully requests to be apprised of additional study that will be performed for this project. If you have any questions regarding our concerns, please feel free to contact me or Ms. Barbara Rudnick, P.G., NEPA Team Leader and principal reviewer for the project at (215) 814 3322.

Sincerely,


for Jeffrey D. Lapp, Associate Director
Office of Environmental Programs

Attachment

Attachment

AG5.4, 5.6, 5.8, 5.14, 5.16 EPA appreciates effort to respond to concerns about local geology. It still is of concern that site specific geotechnical information is not analyzed for the project to more clearly identify potential risks and potential environmental impacts.

AG5.10.b Response is correct; however, the EIS should still use the historical WVDNR, WVDEP and USACE data from East Lynn Lake and the tributaries in their review.

AG5.11 There will be mine water discharges from the underground mine works into the receiving streams and eventually into East Lynn Lake which are currently listed as impaired due to probable mine related water quality issues. BLM should review the water quality from the active mine area to project the water quality that will be discharged from the proposed mine workings on the East Lynn Lake property. Will the water quality further impair the listed streams and East Lynn Lake?

AG5.19. The same coal seams are being mined so the underground mine discharges and its water quality must be addressed. It is recommended that the water quality from the current active mine works be reviewed to interpret the probable water quality issues that may occur from the proposed East Lynn Lake lease property.

AG5.20 The DEIS noted that the USACE stated that the East Lynn Lake fisheries was 'hindered' (actually the term should be impaired) due to poor water quality which is related to coal mining activities in the watershed. The new proposed mine's discharges must be reviewed and evaluated on any further degradation of the water quality at East Lynn Lake and its aquatic resources.

AG.5.22 The historical water quality and biological data from the Twelvepole Creek watershed should be evaluated to document the on-going impairment of the watershed. The sources of impairment for Twelvepole Creek tributaries and East Lynn Lake have been potentially identified as mining related so the EIS needs to address these issues.

AG.5.24 Mine subsidence has been documented in the area of southwestern West Virginia. The BLM should require analysis of any documented subsidence issues at the adjacent mine areas and how subsidence will be avoided at the proposed East Lynn Lake leased property. It is recommended that this be a supplemental study or a requirement in the ROD.

AG.5.25 The DEIS states that the USACE data confirms that the aquatic resources of East Lynn Lake are impaired ('hindered') plus WVDEP lists East Lynn Lake and several tributaries as impaired due to water quality problems related to probable mining related activities. The applicant should address these issues.

AG.5.27.a The response states 'the proposed mining is anticipated to have minimal negative impacts on environmental or recreational resources.' However, the East Lynn Lake fishery is already impaired but it is a high value recreational asset important in the State of West Virginia. Further impairment of aquatic resources must be addressed.

